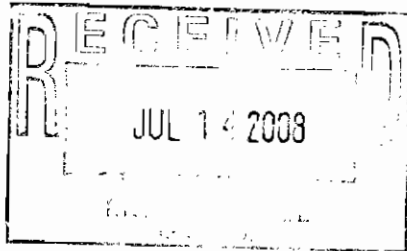


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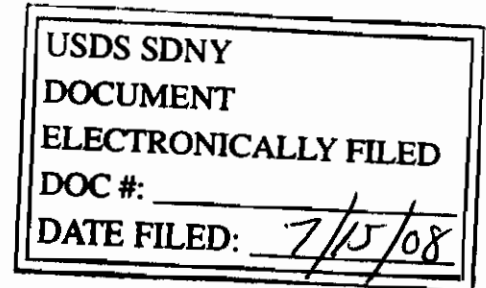
Attorneys at Law

20 Corporate Woods Boulevard  
Albany, New York 12211  
Telephone: (518) 455-9952  
Telecopier: (518) 462-4031  
www.thuillezford.com

MEMO ENDORSED



July 10, 2008



Honorable P. Kevin Castel  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Yolanda Michelle West v. Deloras Brickman AM Nurse/O.C.D.H., Carlos Torres PM & AM Nurse, O.C.D.H., Jason Berger PM & AM Nurse/O.C.D.H., Valerie Zeppelin Day Shift/O.C.J., Diane Tuttle Day Shift/O.C.J., Sandra Dawson PM Shift Nurse/O.C.H.D./OCJ, Maura AM Shift Nurse/O.C.H.D./OCJ  
Case No.: 07-CV-7260  
Our File No.: 40.7020

Dear Judge Castel:

This office represents Doloris Brigman (improperly sued as "Deloras Brickman") and Carlos Torres, in the above-referenced action. We request a pre-motion conference concerning our proposed motion to dismiss the action against these defendants.

Plaintiff brings her actions under 42 U.S.C. § 1983, alleging that the above-noted defendants violated her rights when she was an inmate at the Orange County Correctional Facility and these defendants allegedly failed to provide her with pain medication, post-ankle surgery, in a timely manner.

Plaintiff's Complaint does not specifically identify what constitutional violation she is claiming. If she is, in fact, alleging an Eighth Amendment violation, she will need to establish that these defendants were deliberately indifferent to her serious medical needs. See Estelle v. Gamble, 429 U.S. 97, 104 (1967). Their actions must create a "substantial risk of serious harm." Farmer v. Brennan, 511 U.S. 825, 837 (1994).

There have been written decisions in which an inmate claims that the administration of medication was delayed and that the medication would have reduced or avoided an increase in pain or symptoms and the courts held that such delay did not rise to the level of deliberate indifference. Davidson v. Harrison, 960 F. Supp. 644, 648-649 (W.D.N.Y. 1997); see also Evans v. Bonner, 196 F. Supp. 2d 252 (E.D.N.Y. 2002).

Honorable P. Kevin Castel  
July 10, 2008  
Page 2 of 3

We plan to submit a motion to dismiss based on the argument set forth above and request a pre-motion conference in accordance with your individual rules. If possible, we would like to appear telephonically, however, we are able to appear in person if you prefer.

Respectfully submitted,

Thuillez, Ford, Gold, Butler & Young, LLP

*Kelly Monroe*  
Kelly M. Monroe

KMM/ks

cc: Laura Wong-Pan  
Senior Assistant County Attorney  
County of Orange  
Department of Law  
Government Center  
255 Main Street  
Goshen, NY 10924

Yolanda Michelle West, Pro Se  
46 Overlook Place  
Newburgh, New York 12550

Defendant Bruchman's previously filed motion to dismiss (Docket #11) is deemed withdrawn. Defendant Bruchman ad Tones' pre-motion conference request to file a motion to dismiss is granted to the extent that the conference requirement is waived. The request is waived. The motion must be filed by July 29, as well as any other motion by any defendant. Plaintiff's time to respond to all motions to dismiss (including the motion by Tuttle ad Zeppelin) is adjourned to August 22. The time of all defendants to reply, if a reply is desired, is extended to September 5. Defendant Bruchman ad Tones are alerted to Local Rule 12.1. Counsel is cautioned that all facts alleged in the complaint will be accepted as true for the purpose of the pre-motion conference. Plaintiff's counsel should seriously consider all reasonable arguments and motion to the court. All of all discovery.   
DO NOT  
7-14-08